

Exhibit A

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 INNOVATION VENTURES, LLC, LIVING ESSENTIALS,
4 LLC, and INTERNATIONAL IP HOLDINGS, LLC,

5 Plaintiffs,

6 -against-

7 ULTIMATE ONE DISTRIBUTING CORP., et al.,

8 Defendants,

9 Case No. 12 Civ. 5354 (KAM) (RLM)

10
11 1133 Avenue of the Americas
12 New York, New York

13 April 25, 2013
14 10:05 a.m.

15 Videotaped Deposition of SCOTT TILBROOK,
16 pursuant to Notice, before Sophie Nolan, a
17 Notary Public of the State of New York.

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19
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21
22
23 ELLEN GRAUER COURT REPORTING CO. LLC
24 126 East 56th Street, Fifth Floor
25 New York, New York 10022
212-750-6434
Ref: 103337

1 TILBROOK

2 MR. GOODMAN: This one has back
3 food sales.

4 A. Okay. Do you have a question on
5 it?

6 Q. To your knowledge does this
7 summarize all of your purchases of 5-hour
8 Energy ever?

9 A. To my knowledge, it does.

10 Q. Other than the one sale to Impact
11 Food Sales did any of the 5-hour Energy that
12 you bought from any of your vendors go directly
13 to Quality King?

14 A. That question I could not answer
15 exactly as I did not pick up the product.
16 Quality King did.

17 MR. GOODMAN: No, but the purchaser
18 was Quality King.

19 Q. Yeah --

20 A. Well, he didn't ask the question
21 that way. He asked if it went directly to
22 Quality King. I'm specifying my answer in the
23 fact that Quality King was the person picking
24 the product up, whether it went into their
25 hands or not, I don't know.

1 TILBROOK

2 or regulation.

3 Q. Obtained by FDI?

4 A. Correct.

5 Q. Does it -- does this apply to FDI's
6 supplier in your view?

7 MR. GOODMAN: I'll object to the
8 form of the question, you can answer.

9 A. I know, I need a direct question.
10 As far as you asked me the question of what
11 this means to me and I think I answered that
12 question. And now you're asking me to explain
13 it in a different way.

14 Q. Did you understand that the -- the
15 rep and warranty -- the representation and
16 warranty that FDI was making to Quality King
17 was on behalf of FDI only or on behalf of FDI
18 and its supplier?

19 A. I represent my company. I don't
20 represent my suppliers.

21 Q. So as far as --

22 A. I can't represent another company
23 that I don't work for or represent. You know,
24 I'm not a -- I'm not a sales rep for Baja
25 Exporting.

1 TILBROOK

2 negotiations or conversations with Kevin Attiq
3 about the 5-hour Energy?

4 MR. THOMPSON: : Objection, calls
5 for speculation.

6 MR. GOODMAN: Well, if you know.

7 Do you know if Joseph Shayota was aware?

8 A. Ask me that question in a different
9 way because that's a broad spectrum.

10 Q. Did you discuss your negotiations
11 between yourself and Kevin Attiq with Joe
12 Shayota?

13 A. No. Joe said whatever deal you
14 work out with Kevin you work out.

15 Q. Did you follow up with Joe about
16 your relationship with Kevin Attiq and Dan Dee
17 in this infancy of this relationship?

18 A. If I was to answer that question
19 I'd be guessing at what dialogue was said. I
20 don't remember.

21 Q. Okay. Well, you testified earlier
22 that the reason you started doing business with
23 Dan Dee with regard to 5-hour Energy -- well,
24 one of the reasons was that Joe put you
25 together with Kevin; right?